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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/089,426	03/29/2002	Juha Pihlaja	297-010894-US (PAR)	7015
2512	7590	03/02/2012		
Perman & Green, LLP 99 Hawley Lane Stratford, CT 06614			EXAMINER HALIYUR, VENKATESH N	
			ART UNIT 2476	PAPER NUMBER
			MAIL DATE 03/02/2012	DELIVERY MODE PAPER

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte JUHA PIHLAJA

Appeal 2010-000529
Application 10/089,426
Technology Center 2400

Before ROBERT E. NAPPI, DEBRA K. STEPHENS, and DENISE M.
POTHIER, *Administrative Patent Judges*.

STEPHENS, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellant appeals under 35 U.S.C. § 134(a) (2002) from a final rejection of claims 1-17. We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.

Introduction

According to Appellant, the invention relates to microwave radio link systems, and specifically point-to-multipoint (PMP) radio systems in which access points (AP) operate in full-duplex mode and terminals (Access Terminal, AT) operate in half-duplex mode. A first group of two terminal groups is arranged to listen during a first half of a time period and a second group of the two terminal groups is arranged to listen during the second half of the time period. Broadcast messages are sent twice, i.e. once during each half of the time period. (Abstract).

STATEMENT OF THE CASE

Exemplary Claim(s)

Claim 1 is an exemplary claim and is reproduced below:

1. A system for providing wireless point-to-multipoint connections comprising an access point using full-duplex mode and terminals using half-duplex mode, wherein:

each of a plurality of the terminals has an equipment identifier,

each of said plurality of the terminals is arranged to classify itself as belonging to a first group of terminals or a second group of terminals based on said equipment identifier according to a predefined rule; and

the access point is arranged to send a first broadcast message to said first group of terminals and a second broadcast message to said second group of terminals, and

the access point is arranged to schedule the transmission period of at least one terminal of said second group to overlap at least partly with the transmission period of said first broadcast message.

Prior Art

Delprat	US 5,617,412	Apr. 1, 1997
Lenzo	US 6,556,830 B1	Apr. 29, 2003

Rejections

Claims 1-17 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Delprat and Lenzo.

GROUPING OF CLAIMS

Based upon Appellant's arguments, we select representative claim 1 to decide this appeal for the group consisting of claims 1-17. (*See* Br. 4-10).

We have only considered those arguments that Appellant actually raised in the Brief. Arguments Appellant could have made but chose not to make in the Brief have not been considered and are deemed to be waived. *See* 37 C.F.R. § 41.37(c)(1)(vii) (2009).

ISSUE

35 U.S.C. § 103(a): claims 1-17

Appellant asserts the invention is not obvious over Delprat and Lenzo because neither Delprat nor Lenzo teaches or suggests (i) “broadcast” messages (Br. 4-5); (ii) a single access point entity that is arranged to send a first broadcast message to a first group of terminals (Br. 6-7); and (iii) the access point is arranged to schedule the transmission period of a terminal in the second group to overlap at least partly with the transmission period of the first broadcast message (Br. 7-8) .

Appellant further asserts no motivation exists to combine Delprat and Lenzo since Lenzo simultaneously sends and receives (from a base station cluster) causing “serious disturbance of traffic” which Delprat aims to avoid (Br. 8). According to Appellant, this would be considered causing “serious disturbance of traffic” in Delprat (*id.*). Thus, Appellant contends it is improper to combine the reference (*id.*).

Issue : Has the Examiner erred in finding:

- (a) the combination of Delprat and Lenzo would have taught or suggested (i) “the access point is arranged to send a first broadcast message to said first group of terminals and a second broadcast message to said second group of terminals” and (ii) “the access point is arranged to schedule the transmission period of at least one terminal of said second group to overlap at least partly with the transmission period of said first broadcast message” or as recited in claim 1 and

- (b) one of ordinary skill in the art would have been motivated to combine the teachings of Delprat and Lenzo?

ANALYSIS

Appellant argues Delprat discloses multiframe but does not disclose the frames include broadcast messages (Br. 4). Further, according to Appellant, Delprat does not use broadcast in the same way as the invention at hand (Br. 5). We find Delprat teaches or suggests sending broadcast messages (col. 6, ll. 16-22). Appellant did not explicitly define “broadcast messages” in their Specification and have not presented any persuasive argument or evidence that the Examiner’s interpretation, which we find to be broad but reasonable in light of the Specification, is mistaken (*see In re Bigio*, 381 F.3d 1320, 1324 (Fed. Cir. 2004)). Therefore, we find Delprat would have taught or suggested the access point is arranged to send a first broadcast message to the first group of terminals and a second broadcast message to the second group of terminals.

Appellant also argues Lenzo does not teach or suggest a single access point entry but instead discloses the use of a base station “cluster” that has at least a first and second subset of base stations (Br. 6). Therefore, Appellant contends, since Lenzo does not teach a single access point entry, Lenzo does not teach or suggest an access point (base station) is arranged to schedule the transmission periods of a first group terminal and a second broadcast message (Br. 6-7).

We note the Examiner relied upon Delprat as disclosing the access point transmitting first and second groups of messages simultaneously (i.e.,

overlapping) (Ans. 4 and 11) and relies on Lenzo as teaching a method where an access point *is arranged to schedule* the transmission period of at least one terminal of the second group to overlap at least partly with the transmission period of the first broadcast message (Ans. 4 and 11-13). We agree with the Examiner's findings regarding Delprat and Lenzo (*id.*) and further find Lenzo teaches or suggests a transmission period of one group overlapping at least partly with the transmission period of a broadcast message (*see* Ans. 11-13 and Lenzo, Figs. 4B and 4C).

Accordingly, we find the combination of Delprat and Lenzo would have taught or at least suggested the invention as recited in claim 1.

Appellant's arguments that it would have been improper to combine the teachings of Lenzo with Delprat's teachings (Br. 7-9) are not persuasive. We agree with the Examiner's finding that one of ordinary skill in the art would have been motivated to use Lenzo's teachings of scheduling overlapping transmission periods between first and second groups of terminals – a data communication technique – with Delprat's teaching of an access point simultaneously sending transmissions to and receiving transmissions from mobile stations which have been grouped (Ans. 13). We do not agree the teachings of Delprat and Lenzo are conflicting as asserted by Appellant (Br. 8).

As such, we conclude combining the technique of Lenzo with the teachings of Delprat would have been obvious. Therefore, we find the combination of Delprat and Lenzo would have taught or suggested (i) "the access point is arranged to send a first broadcast message to said first group of terminals and a second broadcast message to said second group of

terminals” and (ii) “the access point is arranged to schedule the transmission period of at least one terminal of said second group to overlap at least partly with the transmission period of said first broadcast message” as recited in claim 1.

With respect to claims 8-11, Appellant stated the limitation recited in claim 8, broadly describes the teachings of Delprat, and asserts none of Delprat, Lenzo, or a combination of the references discloses the limitation. On this record, we find Appellant has failed to present *substantive* arguments and supporting *evidence* persuasive of Examiner error regarding the aforementioned disputed limitations. *See In re Lovin*, 652 F.3d 1349, 1357 (Fed. Cir. 2011)(“we hold that the Board reasonably interpreted Rule 41.37 to require more substantive arguments in an appeal brief than a mere recitation of the claim elements and a naked assertion that the corresponding elements were not found in the prior art.”); *see also Hyatt v. Dudas*, 551 F.3d 1307, 1314 (Fed. Cir 2008)(Arguments not made are considered waived).

Accordingly, the Examiner did not err in finding the combination of Delprat and Lenzo would have taught or suggested the invention as recited in independent claim 1 and commensurately recited independent claims 3, 4, and 6. Dependent claims 2, 5, 7, and 12-17 were not separately argued and therefore fall with their respective independent claims. Dependent claims 8-11 also fall with their respective independent claims for the reasons set forth above.

We also find one of ordinary skill in the art would have been motivated to combine the teachings of Delprat and Lenzo.

Accordingly, Appellant has not shown the Examiner erred in rejecting claims 1-17 under 35 U.S.C. § 103(a) for obviousness over Delprat and Lenzo.

DECISION

The Examiner's rejection of claims 1-17 under 35 U.S.C. § 103(a) as being obvious over Delprat and Lenzo is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv) (2010).

AFFIRMED

ELD